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US VIRGIN ISLANDS DAILY NEWS

Refinery's environmental legacy could ensnare the future

By Brian O'Connor, Daily News

July 17, 2018



Contract documents and U.S. Environmental Protection Agency records offer a glimpse into how lingering environmental issues at a St. Croix refinery could be handled if refining resumes.

Gov. Kenneth Mapp has announced an agreement to reopen the former HOVENSA refinery on St. Croix with ArcLight Capital Partners, which currently operates the Limetree Bay Terminals oil storage facility. Mapp has called senators into a special session on July 25 to ratify the agreement.

Copies of the contract furnished to The Daily News show Limetree has been given latitude to pursue modification of the existing federal consent decree through an affiliated subsidiary.

The Clean Air Act Consent Decree came about after the EPA discovered some refinery buildings leaking benzene and other chemicals into the air.

The EPA sought a fine and improvements to the refinery, resulting in a consent decree in 2011 with HOVENSA, which agreed to pay a \$5.4-million civil fine and invest \$700 million in

improvements to air quality control at the site of the refinery, according to the EPA. However, HOVENSA shuttered the plant later that year, leaving the consent decree momentarily in limbo.

Two separate agreements govern the interaction between the government and Limetree. The Revised and Amended Terminal Operating Agreement governs ongoing terminal operations.

The Refinery Agreement governs the potential refinery. Sections of the agreement refer to long waiting and evaluation periods to ensure whether refining is actually feasible, given the environmental legacy at the site.

The initial review period is a minimum of 36 months, and can be renewed for up to five years, according to the agreement.

The timing means the earliest refining could start — assuming ratification by the V.I. Legislature on July 25 — would be July 25, 2021. The latest refining could start with immediate ratification would be July 25, 2023.

If Limetree is found responsible for the consent decree, it can avoid restarting the refinery altogether, according to the contract.

If Limetree “would be subject to material liability under the Clean Air Act Consent Decree notwithstanding Refinery Operator and the Government’s efforts pursuant to Section 4.1(A), the Refinery Evaluation Period shall, at the option of Refinery Operator, be terminated for all or a subset of the Refinery prior to the end of the then-current Refinery Evaluation Period within ten (10) days of a written notice by Refinery Operator of termination of such Refinery Evaluation Period, to minimize any such liability,” the agreement reads.

If the refinery restart is not scheduled within the maximum five-year window, Limetree has the option to dismantle part or all of the refinery at its expense within three years, according to the agreement. The government could potentially receive some revenues if portions are dismantled after the restart, according to the agreement.

HOVENSA and the EPA formed the HOVENSA Environmental Response Trust in 2016, which took over environmental remediation efforts at the former refinery site under the terms of the Resource Conservation and Recovery Act. The trust was endowed with \$72 million to clean up the site, according to a notice published in the Federal Register.

Environmental cleanup is still underway at the facility, according to the most recent two-year report filed with the EPA, which is dated in 2015. In 2014 and 2015, HOVENSA removed 289.6 tons of tank sludge containing benzene, cadmium, mercury, and other chemicals and shipped them to facilities in Texas, Florida and Arkansas.

The 2015 report represents a relatively quiet period for cleanup at the refinery. HOVENSA reported removal of 10,064 tons of waste in 2012 and 2013. During those two years, benzene, lime sludge, cadmium, barium, chromium, mercury and silver were sent to facilities in Texas, Louisiana, Pennsylvania, Arkansas, and Florida.

Some sections of the contract address the interplay between the Environmental Response Trust and Limetree.

The contract provides for Limetree to act on behalf of HERT to completely clean up the site, with participation by government agencies. Solid waste cleanup is conducted under the terms of

the Resource Conservation and Recovery Act, or RCRA, which governs hazardous waste sites nationwide.

The agreement uses the acronym “HERT” for the trust.

“Such performance is funded by HOVENSA or HERT or, to the extent such funds prove inadequate, by amounts made available pursuant to the RCRA financial assurance demonstration for the site, but only to the extent agreed to in writing by both EPA and DPNR,” the contract reads in part.

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